

CHANGE**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

1600.38B CHG. 1

12/15/87

SUBJ: FAA INVESTIGATIONS PROGRAM

1. PURPOSE. This change transmits the following appendices: Appendix 1, Order DOT 8000.5, Office of the Inspector General Investigative Procedures; Appendix 2, Chapter II, Investigations, Order DOT 8000.4, Office of the Inspector General Audit and Investigation Responsibilities; and Appendix 3, Chapter II, Investigations, Order DOT 8000.1B, Office of Inspector General Audit and Investigation Report Findings, Recommendations, and Followup Action.
2. EXPLANATION OF CHANGE. This documentation was inadvertently omitted during the initial printing process.
3. DISPOSITION OF TRANSMITTAL. After filing these appendices, this change transmittal should be retained with basic directive.

PAGE CONTROL CHART

Remove Pages	Dated	Insert Pages	Dated
None		Appendix 1 DOT Order 8000.5	4-18-84
		Appendix 2 Chapter II, DOT Order 8000.4	3-8-84
		Appendix 3 Chapter II, DOT Order 8000.1B	10-30-84


Raymond A. Salazar
Director of Civil Aviation Security



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

1600.38B
APPENDIX 1

ORDER

DOT 8000.5

4-18-84

Subject: OFFICE OF INSPECTOR GENERAL INVESTIGATIVE
PROCEDURES

1. Purpose. This order provides a summary of the Office of Inspector General's (OIG) investigative procedures under the Inspector General Act of 1978, as amended. DOT Order 8000.1A, Audit and Investigative Report Findings, Recommendations and Followup Action provides procedures for the issuance of reports of investigation and management followup actions.

2. SPECIFIC RESPONSIBILITIES AND OPERATING PROCEDURES

- a. Referrals for Investigation. To effectively carry out its investigative responsibilities, the OIG must have the full cooperation of all officials and employees of the Department to ensure that investigative matters within the purview of the Inspector General Act are promptly referred to the OIG for disposition in accordance with the below described procedures.
- b. Agency Officials. Agency heads, in addition to ensuring compliance with applicable statutes, regulations, and agency instructions and except as otherwise provided by law, are responsible for bringing to the attention of the OIG complaints, allegations, or information relating to matters within the jurisdiction of the OIG. Information brought to the attention of supervisory or management officials will be so referred to the OIG without delay and without change. Such information must be safeguarded and restricted to officials who have a "need-to-know." Each administration will appoint a liaison official and notify the OIG of such individual's identity and any subsequent changes in representation.
- c. Departmental Employees. Employees are responsible for reporting to proper officials, for referral to the OIG, all instances of direct or suspected violations of law, waste, abuse, or mismanagement, or irregular activities by a DOT employee, contractor, or grantee affecting DOT programs or activities. Employees also have the option of making a direct referral to the Inspector General via the OIG hotline (see subparagraph d) on FTS-755-1855 or 800-424-9071, or by mail to the Office of Inspector General, P.O. Box 23178, Washington, D.C. 20026-0178.
- d. OIG Hotline.
 - (1) The Inspector General Act of 1978, Section 7, authorizes the Inspector General to receive and investigate complaints or information concerning the possible existence of any activity constituting a violation of law, rules, regulations,

mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. The Inspector General, after receipt of a complaint or information from a source, shall protect the identity of the source when anonymity is requested, unless the Inspector General determines that such disclosure is unavoidable during the course of an investigation.

- (2) Some complaints may not be appropriate for OIG investigation or audit but more suitable for investigation or administrative action by a DOT element or other Government agency. When this occurs, the OIG will forward the complaint to the concerned DOT element or other Governmental agency for their information or action.
- (3) The OIG has a responsibility to document the nature and disposition of all hotline complaints regardless of disposition. When a complaint is referred to a DOT element, the OIG will require notification of action taken by the DOT element, normally within 30 days of transmitting the complaint.

e. Requests for OIG Investigation

- (1) Requests for investigation from DOT elements should be in writing from the designated liaison official or other agency officials authorized to request OIG investigations. In exigent circumstances, telephonic requests may be made, followed by a written confirmation.
- (2) Requests may be directed to OIG Headquarters or field offices, commensurate with the internal procedures of each DOT element.
- (3) All pertinent available facts, information and supporting documentation should be included in the request.
- (4) The OIG will promptly acknowledge such requests and advise the requester whether the OIG will conduct an investigation. If declined, the matter may be referred back to the requester for administrative action as appropriate.

- f. Notice of Investigation. The OIG will: (1) provide notice of an investigation to the designated Departmental investigation liaison official or higher DOT authority as promptly as possible after initiating an investigation, except when other considerations make notification impractical; (2) as appropriate, keep them informed in a timely manner of significant case developments; and (3) provide the results of investigation to the appropriate DOT official as promptly as possible following the completion of an investigation.

3. ASSISTANCE DURING INVESTIGATIONS

- a. Agency officials must, in accordance with the Inspector General Act, Section 6(a)(1), provide OIG personnel access to all records, reports, audits, reviews, or other available material which relate to programs and operations for which the Inspector General has audit or investigative responsibilities under the Inspector General Act. Requests for technical assistance should be approved whenever possible.
- b. Agency officials must not take actions prejudicial to an investigation and shall coordinate proposed administrative actions with the OIG on matters affecting a pending investigation, prosecution or civil proceeding in which the OIG has an interest. Every effort will be made by the OIG, in coordination with the Department of Justice, or other appropriate Federal agency, and interested DOT elements, to accommodate all interests in expeditiously resolving issues in cases of parallel proceedings.
- c. Officers and employees must cooperate in official investigations or inquiries or face possible administrative action. The cooperation required includes testifying and providing information relating to the performance of their duties. Based on court precedents, refusal to cooperate may result in removal from office or employment unless the officer or employee validly invokes his or her privilege against self-incrimination.

FOR THE SECRETARY OF TRANSPORTATION:

Robert L. Fairman
Assistant Secretary
for Administration

DOT 8000.4
3/8/84

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CHAPTER II
INVESTIGATIONS

1. PURPOSE. To provide a summary of the OIG's investigative responsibilities.
2. INVESTIGATIVE RESPONSIBILITIES.
 - a. Provides policy direction for and conducts, supervises, and coordinates investigations relating to the programs and operations of the Department that fall within the purview of the Inspector General Act of 1978, as amended. In general, these investigations involve fraud, waste, mismanagement, or abuse in any of the Department's programs, activities, or operations. Investigations may be conducted in support of criminal, civil or administrative proceedings.
 - b. Performs joint audit/investigative activities such as Fraud Prevention and Detection Surveys. These surveys are conducted to combat fraud, waste, and mismanagement in certain DOT program areas which are selected by identifying and evaluation various risk factors.
 - c. Coordinates with management officials to ensure that appropriate and timely action is taken by management in response to investigation reports.
 - d. Recommends policies for and conducts, supervises, or coordinates relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the Department, or the identification and prosecution of participants in such fraud and abuse.
 - e. Reports expeditiously to the Attorney General whenever there are reasonable grounds to believe that a violation of Federal criminal law has been committed.
 - f. Manages a system whereby all complaints concerning fraud, waste, or program abuse receive appropriate action.
3. INVESTIGATIVE APPROACH.

Type of Complaints or Allegations. Generally, the OIG has the statutory authority to investigate a wide range of activities which constitute fraud, waste, mismanagement, or abuse. Examples of suspected violations generally within this range of activities which must be referred to the OIG for evaluation or investigation are listed below.

- (1) False or fraudulent claims, statements or certifications by employees, contractors, borrowers, grantees or others in connection with DOT programs.
 - (2) False or fraudulent claims for payment involving goods and services not delivered or involving the delivery of nonconforming goods.
 - (3) Unlawful manipulation of the competitive bidding process.
 - (4) Unauthorized concealment, removal, obliteration, alteration or destruction of official documents.
 - (5) Misappropriation or embezzlement of Government funds or conversion of Government property or Government-funded property.
 - (6) Bribery or corruption of Government employees or officials.
 - (7) Conflicts of interest, including violations of DOT Regulations, 49 CFR Part 99 (see paragraph 4a).
- b. Other Acts. The examples listed above are illustrative as opposed to limiting. Any other improprieties or any illegal acts in connection with DOT funds, committed by concealment, fraud, or deceit, to obtain money or property, to avoid payment of money, or to gain a business or personal advantage, must be reported to the OIG.
- c. Delimitation. The U.S. Coast Guard, because it has internal investigative capabilities and has separate enforcement authority under the Uniform Code of Military Justice (UCMJ), is subject to the following guidelines:
- (1) Any incident or suspected incident of fraud, waste or abuse occurring on a military installation by Coast Guard personnel subject to the UCMJ may be investigated and prosecuted by the Coast Guard provided that only Coast Guard personnel subject to the UCMJ are involved in such crimes as principals or accessories and any principal victims are subject to the UCMJ or otherwise subject to Coast Guard jurisdiction. If the preceding conditions are not met, the Coast Guard shall promptly refer such offenses to the OIG for investigation. The OIG may refer cases of direct interest to the OIG for investigation.
 - (2) Any investigation conducted by the Coast Guard pursuant to the above shall be reported to the OIG on a quarterly basis. This report shall include a summary of the case, including any action taken by the Coast Guard.

- d. Administrative Remedies. Generally, the following areas should be resolved by supervisory or management officials and not the OIG: misuse of Government vehicles, property or equipment; violations of personnel or security regulations; minor employee misconduct; discrimination; sexual harassment; incidents which require investigations solely for security suitability determinations, etc. However, when there is doubt concerning jurisdiction or responsibility for action or when multiple allegations are alleged which may overlap, the matter should be discussed with the OIG for resolution.

4. RELATIONSHIPS.

- a. Agency Ethics Program. Nothing in this Order is intended to supersede the jurisdiction and responsibilities of and required coordination with the Designated Agency Ethics Official under the various employee ethics and conflict of interest laws, orders, and regulations, which include 18 U.S.C., Chapter 11, E.O. 11222, 5 CFR Part 735, 49 CFR Part 99, and the Ethics in Government Act of 1978 (P.L. 96-28), as implemented by the regulations of the Office of Government Ethics in 5 CFR Parts 734 and 737. The Office of the General Counsel and the OIG will coordinate on matters that fall within this jurisdiction and responsibility and will consult, as appropriate, on matters, other than ethics, that involve alleged violations, the existence of which depends upon statutory construction and legal interpretation, before referral to Justice or other appropriate authority for prosecution.
- b. Security Programs. Nothing in this Order is intended to supersede the jurisdiction and responsibility of and required coordination with the OST Security Staff or other security elements within the Department incidental to the administration of the security programs under their cognizance in accordance with applicable laws, orders and regulations.
- c. Other Agencies. The OIG will refer matters of investigative interest to other Offices of Inspectors General, investigative or law enforcement agencies which have jurisdiction over the matter.

Robert L. Fairman
Assistant Secretary For Administration

DOT 8000.1B
10-30-84

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CHAPTER 11

INVESTIGATIONS

1. PURPOSE. This Chapter contains DOT policy and procedures for the review of OIG Reports of Investigation and the reporting and review of corrective actions taken as a result of the investigation.
2. BACKGROUND.
 - a. In accordance with Section 5(a) of the Inspector General Act of 1978 (5 U.S.C. App.), the Inspector General (IG) must keep the Secretary and Congress fully and currently informed concerning significant problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by DOT; recommend corrective action concerning such problems, abuses, and deficiencies; and report on the progress made in implementing such corrective action.
 - b. Further, the IG must, pursuant to Section 4(d) of the Act, report expeditiously to the Attorney General of the United States whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law. The Department of Justice (DOJ) will decide whether civil or criminal actions should be instituted or declined and will inform the IG of that decision.
 - c. OIG Reports of Investigation are prepared for use in criminal, military, civil, administrative, or management proceedings.
 - d. The Assistant Inspector General for Investigations will maintain a followup system to ensure that appropriate and timely actions are taken by DOT Management Officials or other action authorities in response to OIG investigation reports.
 - e. Corrective actions taken by Management Officials or other action authorities as a result of an investigation may consist of: disciplinary actions; adverse actions against Departmental employees; military actions; debarment or suspensions of DOT direct Federal contractors; unacceptability of Federal-aid contractors; or a change in rules, regulations, or operating procedures consistent with existing laws, rules, or regulations.
3. GENERAL POLICY:
 - a. Investigations will be initiated when appropriate. The results of the investigation shall be reported expeditiously to the designated DOT Operating Administration or field liaison officer for corrective actions or for informational purposes.

- b. In those cases where some form of corrective action becomes necessary, the action taken must be timely, have a constructive effect, be based on cause, and be consistent with laws and regulations governing such actions. The OIG must be promptly advised of the results.
 - c. Failure to discipline employees or take corrective action on grantees and contractors who have acted corruptly or unlawfully, or failure to take other forms of corrective action when warranted, will be documented and reported to appropriate officials.
 - d. The OIG will issue Reports of Investigation which may be accompanied by recommendations for corrective action or may outline recommended alternatives.
 - e. The OIG will determine if OIG Reports of Investigation or related memoranda have been reviewed and properly acted upon by agency officials and maintain a record of resolution action taken.
 - f. The OIG may refer disputed corrective actions to the next higher level of operating management directly concerned.
4. CRIMINAL ENFORCEMENT ACTIONS. Normally, OIG investigative reports concerning frauds against the Government are issued to the DOJ or other agencies for a prosecutive determination or in connection with grand jury proceedings. Following prosecution, indictment, or a declination of prosecution, the OIG may then propose additional corrective actions within DOT.
5. DOT ACTIONS WHILE REPORTS ARE PENDING IN THE DEPARTMENT OF JUSTICE.
- a. An OIG Report of Investigation or memorandum may be furnished to DOT Operating Administrations so that immediate necessary steps can be taken to protect the integrity of a DOT program or operation in the interest of safety or public welfare while the matter is pending a prosecutive decision. Under such circumstances, employees and DOT officials shall refrain from making any comment or taking any actions which might prejudice the Government's interest in a pending criminal or civil case. DOT officials who must take action on the OIG reports shall coordinate such matters with the cognizant OIG office to avoid any possible compromise of an ongoing investigation or legal proceeding. Under no circumstances should a compromise payment or offer of a settlement be made with a potential defendant without discussion with the OIG and DOJ approval. These provisions do not supersede the responsibility of the DOT Contract Appeals Board in carrying out the provisions of the Contracts Dispute Act of 1978 (Public Law 95-563).

- b. DOT officials will not provide nor pay for any DOT legal assistance or representation to DOT employees who are subjects of a criminal investigation or targets of a grand jury hearing, nor transfer, detail, or reassign them as a convenience to the employee to attend grand jury proceedings or trials under such circumstances, except as provided for under military proceedings.

6. DOT PROCEDURES FOLLOWING DECLINATIONS OF PROSECUTION.

- a. DOJ or other enforcement agencies may decline to prosecute a case referred to them by the IG for a variety of reasons but mainly because:
 - (1) No substantial Federal or State interest would be served by prosecution.
 - (2) The case lacks jury appeal.
 - (3) There exist adequate, more appropriate Department administrative remedies, such as suspension, removal from service, restitution by the employee, debarment, etc., in lieu of prosecution.
- b. Following a declination of prosecution or civil action by the DOJ or other agencies, the OIG will usually continue the investigation for administrative purposes and report the results to the Operating Administration upon completion, (see paragraph 8. for corrective actions).

7. REPORTS OF INVESTIGATION.

- a. OIG Reports of Investigation are, as a minimum, designated "For Official Use Only" and are inherently sensitive, as they may contain information obtained in confidence, privacy information, or concern sensitive internal matters. Reports will be prepared as far as is practical to allow for maximum use in administrative actions or proceedings.
- b. Highly sensitive or major program investigations will be distributed to appropriate officials at Headquarters level. Other reports may be distributed directly to the Regional Director of a DOT Operating Administration or designated field liaison officer for investigations, with a copy of the transmittal letter being sent to the Headquarters liaison officer.

- c. Reports distributed remain the property of the OIG, and access must be limited to those officials who have a need-to-know and safeguarded in accordance with (instructions) procedures on the cover of the report. Records of disclosure must be maintained on the reverse of the report cover.
- d. Release of reports to individuals other than those responsible for taking action will not be made without prior coordination with the OIG. These restrictions do not necessarily prohibit disclosure required in the course of adverse action proceedings.
- e. Reports may be duplicated for authorized use within DOT. The designated liaison official will maintain a record of the number of copies made and their distribution.

8. CORRECTIVE ACTIONS.

- a. The OIG office that issues a Report of Investigation is responsible for following to conclusion all matters reported. All possible information will be provided to DOT administration officials to initiate corrective actions.
- b. Appropriate disciplinary action against a DOT employee will be imposed in accordance with established Office of Personnel Management and DOT guidelines and procedures or the Uniform Code of Military Justice. Consideration should be given to the gravity of the offense, frequency of violation, position of the employee and his or her past record, real or potential impact on safety and public welfare, and harm caused to DOT program or operational integrity. In addition, the employing Operating Administration or Secretarial Office shall ensure that restitutions are made or that other forms of collections or recoveries are initiated where appropriate.
- c. In those cases where sufficient experience has been developed, the OIG will notify the DOT Operating Administrations or Secretarial Offices of previous corrective actions taken in similar cases.
- d. The employee, grantee, or contractor's unethical or unlawful conduct, and not the prosecutor's decision to forego prosecution, constitutes the basis for Operating Administration or Secretarial Office corrective actions.
- e. The fact that an employee, grantee, or contractor is indicted or convicted of a crime does not relieve the Operating Administration or Secretarial Office of initiating separate corrective action.

- f. In those instances where DOT contracts or grants are involved, remedial actions shall be taken in accordance with existing laws, rules, and regulations.

9. NOTIFICATION OF ACTIONS TAKEN.

- a. The Management Official to whom the report is addressed is responsible for notifying the OIG of actions taken. This notification will include the date and specific nature of the actions taken including copies of any documentation which supports the actions taken (e.g., final decision letters, notice to effect payroll deductions, etc.). If no action was taken, notification shall include the reasons why.
- b. Normally, DOT elements will be requested to provide the OIG with notice of actions taken within 30 days.

10. CLOSING ACTION. The OIG will consider an investigative matter closed when:

- a. Necessary administrative action is completed (such as amount of indebtedness determined and arrangements made for its payment, and personnel or other administrative actions are accomplished) and reported to the OIG.
- b. Legal action is completed by DOT or the DOJ (including a U.S. Attorney). A final judgment or settlement by the DOJ in a civil case is considered as completion of legal action, even though the amount has not been collected.
- c. Action has been taken under the Uniform Code of Military Justice and approved by the appropriate authority.

FOR THE SECRETARY OF TRANSPORTATION:

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